

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

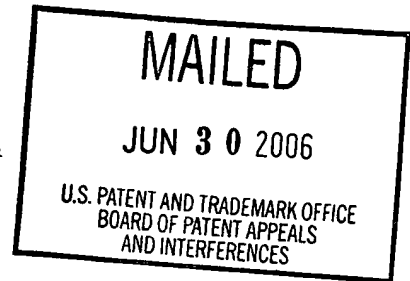
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

Ex parte Naoki Morita, Yasushi Fukaya  
and Kazuo Yamazaki

Appeal No. 2006-0980  
Application No. 10/049,629<sup>1</sup>

HEARD: JUNE 7, 2006



Before HAIRSTON, JERRY SMITH, and SAADAT, Administrative Patent Judges.

SAADAT, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 1-3, which are all of the claims pending in this application.

We reverse.

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<sup>1</sup> Application for patent filed February 22, 2002, under 35 U.S.C. § 371 as the national stage application of the PCT application PCT/JP00/04392, filed June 30, 2000.

BACKGROUND

Appellants' invention is directed to a Numerical Control (NC) machining assisting system, which connects a plurality of NC machine tools to a central manager via a network. Actual machining performance information is supplied to the central manager from the respective NC Machining tools for generating a database on the basis of the collected actual machining performance information. Subsequently, the NC machine tools are each permitted to retrieve information necessary for machining from the database. An understanding of the invention can be derived from a reading of exemplary independent claim 1, which is reproduced as follows:

1. An NC machining assisting system comprising:  
a plurality of NC machine tools each including NC program generating means and NC program improving and updating means that are connected to a central manager via a network; actual machining performance information is supplied to the central manager from the respective NC machine tools; the central manager generates a database on the basis of the collected actual machining performance information and stores the database therein; and the NC machine tools are each permitted to retrieve information necessary for machining from the database.

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The Examiner relies on the following prior art references:

Poth	6,445,959	Sep. 3, 2002 (filed Mar. 27, 1996)
Salvo et al. (Salvo)	6,496,751	Dec. 17, 2002 (filed Dec. 16, 1999)

Claims 1-3 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Salvo and Poth.

Rather than reiterate the opposing arguments, reference is made to the briefs and answer for the respective positions of Appellants and the Examiner. Only those arguments actually made by Appellants have been considered in this decision. Arguments which Appellants could have made but chose not to make in the briefs have not been considered (37 CFR § 41.37(c)(1)(vii)).

#### OPINION

Appellants argue that Salvo is only concerned with monitoring the process variables of a single process machine 10 (brief, page 6) which also lacks an NC program generating means and NC program improving and updating means (id.). Appellants specifically point that there is no support in Salvo that the

control unit 40 generates a database on the basis of the collected machine process variables received from a plurality of machine processes or the actual machining performance information (brief, page 8).

In response to Appellants' arguments, the Examiner asserts that the teachings of Salvo describing the process machine 10 as being one extruder or comprising one or more process machines (col. 4, lines 44-55) reads on the claimed plural machine tools (answer, page 6). The Examiner further argues that Salvo, in combination with Poth, does suggest generating a database on collected machine process variables received from a plurality of process machines (answer, page 7).

Asserting that simply storing process values fails to constitute generating a database on the basis of the collected machine process variable information, Appellants argue that the combination of Salvo and Poth also fails to teach these missing features (reply brief, page 3). Appellants further argue that Poth merely collects status data for analysis purposes rather than performance data which may be retrieved by each of the NC machine tools (oral hearing).

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In rejecting claims under 35 U.S.C. § 103, the Examiner bears the initial burden of presenting a prima facie case of obviousness. See In re Rijckaert, 9 F.3d 1531, 1532, 28 USPQ2d 1955, 1956 (Fed. Cir. 1993). In considering the question of the obviousness of the claimed invention in view of the prior art relied upon, the Examiner is expected to make the factual determination set forth in Graham v. John Deere Co., 383 U.S. 1, 17, 148 USPQ 459, 467 (1966), and to provide a reason why one having ordinary skill in the pertinent art would have been led to modify the prior art or to combine prior art references to arrive at the claimed invention. See also In re Rouffet, 149 F.3d 1350, 1355, 47 USPQ2d 1453, 1456 (Fed. Cir. 1998). Even when obviousness is based on a single prior art reference, there must be a showing of a suggestion or motivation to modify the teachings of that reference. In re Kotzab, 217 F.3d 1365, 1370, 55 USPQ2d 1313, 1316-17 (Fed. Cir. 2000), citing B.F. Goodrich Co. v. Aircraft Breaking Sys. Corp., 72 F.3d 1577, 1582, 37 USPQ2d 1314, 1318 (Fed. Cir. 1996).

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Upon a review of the applied prior art, we disagree with the Examiner that Salvo generates a database on the basis of the actual machining performance information for a plurality of NC machine tools. As pointed out by Appellants (oral hearing), Salvo stores the data for a machine tool for archival purposes and not for generating a database of actual performance information and available to each of the machine tools for machining. We further note that Poth also stores only status data from a network of NC machine tools (col. 2, lines 8-17) and has nothing to do with storing the actual machining performance information in a database. Although the claims do not directly recite the analysis of the stored data, the recitation of a database of "the collected actual machining performance information" to be used by each of the machine tools clearly requires storing performance data in a database not for statistical or archival analysis, but to be retrieved by other machine tools for machining.

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Thus, assuming, arguendo, that it would have been obvious to combine Salvo with Poth, as held by the Examiner, the combination would still fall short of teaching or suggesting the database of the collected actual machining performance information that is available for retrieving information necessary for machining by each of the NC machine tools. We note that the other independent claim 2 includes the same database of the collected actual machining performance information. Accordingly, as the Examiner has failed to set forth a prima facie case of obviousness, we cannot sustain the 35 U.S.C. § 103 rejection of claims 1-3 over Salvo and Poth.

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## CONCLUSION

In view of the foregoing, the decision of the Examiner rejecting claims 1-3 under 35 U.S.C. § 103 is reversed.

REVERSED

  
KENNETH W. HAIRSTON  
Administrative Patent Judge

*Jerry Smith*  
JERRY SMITH  
Administrative Patent Judge

  
MAHSHID D. SAADAT  
Administrative Patent Judge

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